

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MARK A. SPRUANCE,
Petitioner,

V,

THOMAS L. CARROLL, warden,
CARL C. DANBERG, Attorney
General for the State of Delaware

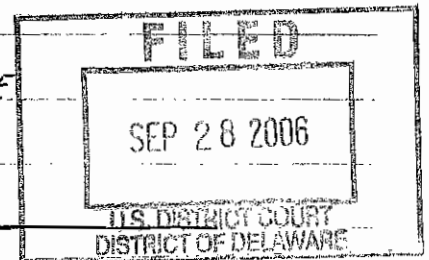
Civ. Act. NO. 06-337-JJF

THIS 26 DAY OF 9

2006

MOTION FOR LEAVE TO FILE

MOTION TO COMPEL



Petitioner moves for leave to file a motion to compel in response to the states motions requesting leave to file a motion to dismiss.

The petitioner states that the respondents motion to dismiss is moot and that they have failed to respond as the law requires where Constitution violations have arised. It is clear that the petitioner has raised a few motions, appeals and petitions but, what isn't clear is why the respondents clearly ignored the petitioner factual issues. On June 26 2006 This Court ordered the respondents to provide document within 45 days of service of the petition and the Courts order in accordance with Rule 5, 28 U. S. C. fall § 2254. However the respondents have failed to comply with this Courts order by first filing

A frivolous motion for the extension of time, which was granted. And now they are seeking permission for leave to file A motion to dismiss before the court decides the merits of the petitioners petition for a writ of Habeas Corpus. It is clear that the petitioner has brought a complaint that must be decided by the court and that regardless of the outcome Constitutional issues can be raised at any time at any level in any Court. This court reviews the petitioner petition pursuant to Rule 4, 28 U.S.C. Fed. § 2254 and pursuant to (AEDPA) Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214. The petitioner states that in raising his constitutional claims regardless of time he has A right under the Constitution and, That the merits of his claims must be decided by the Court and not dismissed as the respondents are seeking. Now therefore the petitioner is asking the court to dismiss the respondents Motion for leave to file A motion to dismiss and that they be compelled to respond as the court ordered them on 6/26/06 and pursuant to Rule 45(c)(2)(B).

I hereby certify that I have caused copies of this motion to be delivered upon the Attorney Mark A Spruance Generals office, The U.S. District Court of Delaware. #00170011 - UNIT - W

This 26 Day of 9
2006

D.C.S. 1181 Paddock Rd

Smyrna, Del. 19977

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MARK A. SPRUANCE,

Petitioner,

V,

Civ. Act. NO. 06-337 - JJF

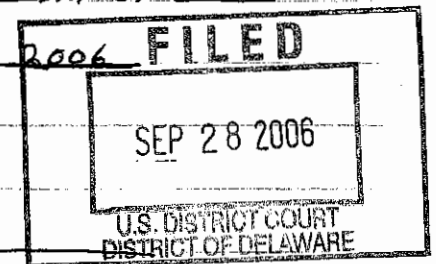
THOMAS L. CARROLL: Warden,

CARL C. DANBERG, Attorney,

General for the State of Delaware,

THIS 26 DAY OF 9

MOTION TO COMPEL



The petitioner moves for leave to file this motion to compel, in lieu of an answer under Rule 45 (C)(2)(B) and Rule 34 (b) of the Federal Rules.

The petitioner states that the respondents have failed to comply with this courts order of June 126/06 and by doing so have failed to produce documents that have been ordered by this Court to be handed over. The respondent also tests the Court authority of subject matter jurisdiction where the law is clear. Pursuant to criminal (Rule 61), A constitutional claim is not at anytime barred by time and, if success is not found at that level an appeal can be sought and determined at the supreme Court level and again, if no success is found there than, Appeal can be sought in this Court. To say that this Court has no jurisdiction over the

petition at hand is frivolous for the respondent to contend. The respondents were ordered in accordance with Rule 5, 28 U.S.C. § 2254 to respond to the petition and also ordered to produce certain documents.,,, Court order 6/26/06 - 2 (d), (c), (f) which at this time have not been obtained by the petitioner. Instead of following the direction of the Court, the states respondent has filed a motion for extension of time, a motion for leave to file a motion to dismiss accompanied with a motion to dismiss violating the original Court order for the production of documents. The question of when or if the Court will hear the merits of a petition after complying with (AEDPA) the Antiterrorism and Effective Death Penalty Act of 1996 Pub. L. No. 104-132 110 Stat. 1214 is a decision only the court can deem constitutional or unconstitutional. Clearly the petitioner challenges the conduct of the respondent for failure to establish and protect his constitutional rights that are set forth in his petition for A writ of Habeas Corpus. Therefore the petitioner prays that the Court will grant this motion to compell the respondents to comply with the Courts order of 6/26/06 and also envoke sanctions on the respondents for noncompliance. I hereby certify that I have caused copies of this motion to be delivered upon The Attorney General Mark A Spruance office, 1111 The U.S. District Court of Delaware, Respectfully
 This 26 Day of 9 2 006

MARK A. SPRUANCE

 00170011 - Unit W
 1181 Paddock Rd
 Smyrna, Del. 19977

Certificate of Service

I here by certify that on September 26, 2006 I placed in mail from the Delaware Correctional Center, Smyrna, Delaware 2 true copies of Motion For Leave To File Motion To Compel and Motion To Compel, to the U.S. District Court of Delaware. I also certify that on September 26, 2006, I mailed 1 copy of each above motion to Carl C. Danberg, Attorney General For the State of Delaware.

1.) Office of the Clerk
United States District Court
844 N. King Street, Lockbox 18
Wilmington, Delaware 19801-3570

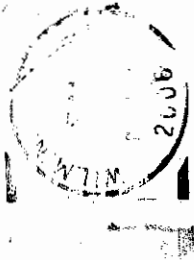
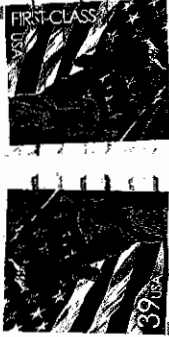
2.) Attorney General Carl C. Danberg
Department of Justice
820 N. French Street
Wilmington, Delaware 19801

Mark A. Spruance
SBI No. 00170011
Delaware Correctional Center
1181 Paddock Road
Smyrna, Delaware 19977

Date: September 26, 2006

Mark A. Spruance
Mark A. Spruance

10M Mr Mark Spence
SBI# 170011 UNIT W-1-L-3
DELAWARE CORRECTIONAL CENTER
1181 PADDOCK ROAD
SMYRNA, DELAWARE 19977



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United States District Court
844 N. King Street, Lockbox 18
Wilmington, Delaware
19801-3570

U.S. N.S.
X-RAY

Legal mail

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